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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

In the Matter of

Communications Assistance  
for Law Enforcement Act

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CC Docket No. 97-213

**REPLY COMMENTS OF SOUTHERN COMMUNICATIONS SERVICES, INC.**

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**REPLY COMMENTS OF SOUTHERN COMMUNICATIONS SERVICES, INC.**

Southern Communications Services, Inc. files this reply in response to the comments submitted in the Further Notice of Proposed Rulemaking (FNPRM) released by the Federal Communications Commission on November 5, 1998 regarding technical standards under the Communications Assistance for Law Enforcement Act (CALEA).<sup>1</sup> The FNPRM solicited comments on several petitions that allege deficiencies in J-STD-025, the interim CALEA technical standard developed for certain carriers under the auspices of the Telecommunications Industry Association (TIA). Although this standard applies only to wireline, cellular and Personal Communications Services (PCS), the Commission solicited comments as to whether it should serve as a guide for other carriers, such as Specialized Mobile Radio (SMR) service providers. In addition, the FCC sought comment on the role it should play, if any, in developing CALEA-compliant technical standards for SMR and other carriers not covered by J-STD-025.

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<sup>1</sup> *In the Matter of Communications Assistance for Law Enforcement Act*, CC Docket No. 97-213, adopted October 22, 1998 (hereinafter "CALEA FNPRM").

Southern Communications Services, Inc. limits its replies to those issues raised by commenters implicating CALEA-compliant technical standards for the SMR industry.

## **I. INTRODUCTION**

1. Southern Communications Services, Inc. (Southern) is a Commercial Mobile Radio Service (CMRS) provider operating a wide-area 800 MHz SMR system throughout its regional service area. This state-of-the-art digital SMR system provides enhanced dispatch communications, phone service, numeric and text paging, and mobile data using Motorola's unique iDEN digital technology. The same handset can be used for digital dispatch communications and interconnected phone service, with subscribers alternating between the two types of service with the press of a button. Developed initially to support the service crews of Southern's affiliated utility operating companies, Southern's system now supports tens of thousands of external customers, the bulk of which are commercial or industrial users, state and local government agencies, and public safety organizations. The Southern 800 MHz SMR system provides service for these customers in rural and urban areas corresponding with its utility system operations throughout Alabama, Georgia, southeastern Mississippi, and the Florida Panhandle.

## **II. COMMENTS**

### **A. The SMR Industry Should Establish CALEA Safe Harbor Standards for SMR Carriers**

2. Southern agrees with commenters such as Nextel<sup>2</sup> and the FBI<sup>3</sup> that the FCC should limit its role to encouraging industry efforts to develop safe harbor standards for SMR

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<sup>2</sup> Nextel Comments at 26.

<sup>3</sup> "We do not believe that the Commission needs to take any more direct action to foster the development of other industry standards..." FBI Comments at 35.

and other carriers not covered by J-STD-025. This approach is particularly sensible in the digital SMR context. For example, there are a limited number of carriers using Motorola's unique iDEN technology and that already have efforts under way to devise a technical solution for CALEA related to this technology. For some time now Southern has been engaged in consultations with Motorola concerning technology being developed that will permit Southern and other iDEN carriers to assist law enforcement with lawfully authorized intercepts. Efforts to adopt formal safe harbor standards are now underway under the auspices of the American Mobile Telecommunications Association (AMTA). The likelihood that this approach will result in a solution that can be developed within the required timeframe is increased if the FCC supports these on-going efforts rather than attempts to mandate standards itself through an administrative proceeding.

3. Southern also supports the comments of Nextel and AT&T that the FCC's role in the standards setting process is statutorily limited absent a deficiency petition or failure of industry to establish such standards.<sup>4</sup> According to Section 107(b) of CALEA, the FCC may establish technical standards by rule only when industry fails to issue standards or, in the case of a standard that has been issued, a party believing the standards to be deficient petitions the FCC to review it.<sup>5</sup> The FCC exercised its Section 107(b) authority to establish technical standards in the instant proceeding in response to petitions by the FBI and Center for Democracy and Technology alleging deficiencies in J-STD-025. Southern respectfully submits that it would not be appropriate for the FCC to adopt standards for SMR carriers since that industry has already

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<sup>4</sup> Nextel Comments at 26; AT&T Comments at 23. See also, ICO Services, Limited Comments at 4-5.

<sup>5</sup> 47 U.S.C.A. § 1006(b).

undertaken efforts to develop standards, as discussed above, and those efforts have yet to be challenged by a deficiency petition.

B. The FCC's Decisions Regarding the Parameters of J-STD-025 Should Serve Only as a General Guide for SMR Carriers

4. Southern agrees with the FBI that J-STD-025 can serve as a general guide for those industries working to establish their own safe harbor standard, provided the FCC does not impose J-STD-025 as a binding standard for SMR carriers. As the FBI has indicated, most industry groups have looked to J-STD-025 in developing their own safe harbor standards, and many will "seek guidance" from the FCC's final order in this proceeding.<sup>6</sup> Indeed, the AMTA committee considering standards for digital dispatch is using J-STD-025 as a point of reference. However, Southern agrees with industry commenters such as AT&T that the FCC's final determination as to which capabilities must be incorporated into J-STD-025 should not be used as a rigid "checklist against which other standards will be judged..."<sup>7</sup> Designed specifically for wireline, cellular and PCS carriers, the J-STD-025 should not dictate the technical standards required under CALEA for industries that are based on different technologies.<sup>8</sup> The Act supports such a distinction because, for example, Section 103 states that carriers must provide only "reasonably available" call-identifying information,<sup>9</sup> and, as the FBI has argued, this

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<sup>6</sup> FBI Comments at 35.

<sup>7</sup> AT&T Comments at 24.

<sup>8</sup> See e.g. Nextel Comments at 27 ("each technology and solution must stand on its own"); PCIA Comments at 35-36 ("technological considerations...demand that" the FCC's decision in this proceeding bind only wireline, cellular and PCS carriers); ICO Services, Limited Comments at 2 (mobile satellite service providers will "require different, often system specific, solutions").

<sup>9</sup> 47 U.S.C.A. § 1002(a)(2).

standard will vary from carrier to carrier based on platform or network architecture.<sup>10</sup> Southern urges the FCC not to impose on SMR systems such as Southern's technical standards developed without any consideration of the unique communications technology and network architecture associated with digital dispatch communications.

5. Southern wishes to reiterate that whether or not the FCC ultimately incorporates all of the capabilities being considered in this proceeding into J-STD-025, many of those capabilities are based on the traditional voice telephony paradigm and are inapplicable in the digital dispatch context.<sup>11</sup> For example, the FCC has tentatively concluded that party join, drop and hold messages during conference calls constitute call-identifying information required under CALEA.<sup>12</sup> As Nextel indicated in its comments, these signals do not exist on a digital dispatch system and therefore cannot be incorporated into a standard for digital dispatch carriers.<sup>13</sup> Other capabilities considered by the FCC for inclusion in J-STD-025, such as call forwarding, call waiting, call hold<sup>14</sup> and post-cut-through dialing<sup>15</sup> have no counterpart in the iDEN dispatch

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<sup>10</sup> FBI Comments at 18 ("Providing law enforcement agencies with access to particular call-identifying information may be technically straightforward with respect to one platform or network architecture and considerably more difficult and complex with respect to another.").

<sup>11</sup> See AT&T Comments at 24 (J-STD-025 is "one manifestation of technical requirements for circuit mode voice communications. Nothing precludes other standards from being developed...").

<sup>12</sup> CALEA FNPRM at ¶ 85.

<sup>13</sup> Nextel Comments at 9.

<sup>14</sup> The FCC has tentatively concluded that call forwarding, call waiting and call hold are call-identifying information required under CALEA. CALEA FNPRM at ¶ 85. These features, which may be typical to conference calls on an interconnected voice system, are not available to users when making a dispatch "group talk" call on Southern's iDEN system. "Group talk" allows multiple mobile units within a certain geographic area to communicate as a group. When a given member of the group initiates a call, the system does not generate information indicating how

communications system.<sup>16</sup> Although this type of information may ultimately be determined to be reasonably available to wireline, cellular and PCS carriers, it would be inappropriate to assume that these requirements can be likewise applied to dispatch communications systems. Therefore these and other functionalities identified in J-STD-025 and the FBI's punch list may not be reasonably available to dispatch-oriented SMR carriers.<sup>17</sup>

6. In light of the vastly different technologies employed by dispatch carriers, as compared to the interconnected voice carriers covered by J-STD-025, the FCC should avoid a reflexive application of J-STD-025 to the SMR industry.

C. The FCC Should Consider a Definition of "Reasonably Available" that is Independent of any Particular Technology

6. Southern supports the view shared by both industry and the FBI that the definition of "reasonably available"<sup>18</sup> will differ from carrier to carrier based on the particular technology employed and therefore should be broad enough to apply to all classes of carrier.<sup>19</sup> Any

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many and which mobile units have responded.

<sup>15</sup> According to the FCC's proposals, post-cut through dialing, which consists of those digits dialed after call set up necessary to route a call to its final destination, constitute call-identifying information under CALEA. CALEA FNPRM at ¶ 128. Because Southern's dispatch system is a push-to-talk system that is not routed through the PSTN, the notion of dialed digit extraction is inapposite.

<sup>16</sup> Dispatch is a push-to-talk (simplex), one-to-one, or one-to-many communication. As such, there is no way to invoke three way calling, call forwarding or call waiting.

<sup>17</sup> Southern also agrees that certain punch list items, such as continuity check tone and surveillance status, simply are not covered by CALEA. See Nextel Comments at 15.

<sup>18</sup> Section 103 of CALEA requires carriers to provide law enforcement with "reasonably available" call-identifying information. 47 U.S.C.A. § 1002(a)(2).

<sup>19</sup> FBI Comments at 18 ("Thus, particular call-identifying information may prove to be 'reasonably available' to one carrier and not 'reasonably available' to another."); J-STD-025 at §

definition of “reasonably available” should also, however, account for a carrier’s business practices and costs. Southern agrees with the approach articulated by GTE that the definition should cover call-identifying information that is normally generated by the network and is captured and retained by a carrier in its normal course of business.<sup>20</sup> The FBI appears to support that approach as well in its comments that the definition should be flexible enough to “protect a carrier’s legitimate interests in the underlying integrity of its network.”<sup>21</sup> In particular, in regard to costs, Southern would argue that financial considerations are invariably an integral part in the evaluation of any technical solution and therefore can not be divorced from any consideration of whether information is “reasonably available.” As a result, Southern agrees with the majority of industry commenters that the J-STD-025 definition of “reasonably available” is flexible enough to allow for consideration of technology, business practices, and costs, and therefore can be applied to all carriers, including SMR. See, e.g., Nextel Comments at 4.

### **III. CONCLUSION**

7. Southern will continue to work with its vendor, Motorola, and other SMR carriers through AMTA to develop CALEA compliant technical standards for digital dispatch communications. In light of the overwhelming consensus reflected in the comments, Southern asks the FCC to support these and other efforts by industry associations to develop technology specific CALEA safe harbor standards. Southern further asks the Commission to consider the

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4.2.1 (reasonable availability may “vary between different technologies and may change as technology evolves.”).

<sup>20</sup> GTE Comments at ii.

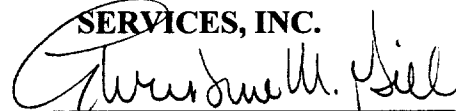
<sup>21</sup> FBI Comments at 25.



comments submitted by both industry and the FBI that CALEA capability obligations may vary from carrier to carrier based on technological differences. In light of the starkly different technologies used by digital dispatch carriers, as compared to wireline, cellular, and PCS carriers, Southern urges the FCC not to impose J-STD-025 requirements on the SMR industry. Finally, Southern asks the FCC to endorse a definition of "reasonably available" that is general enough to apply to all carriers regardless of technology, and that permits consideration of a business practices and costs.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

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